

CONFERENCE COMMITTEE REPORT
House Bill No. 1176 By Representative Broadwater

May 30, 2014

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 1176 by Representative Broadwater, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments proposed by the Senate Committee on Health and Welfare and adopted by the Senate on May 22, 2014, be adopted.
2. That the set of Legislative Bureau Amendments proposed by the Legislative Bureau and adopted by the Senate on May 26, 2014, be adopted.
3. That the Reengrossed bill be amended as follows:

AMENDMENT NO. 1

On page 9, line 20, delete "point of sale" and insert in lieu thereof "point-of-sale"

AMENDMENT NO. 2

On page 11, line 28, delete "owned"

AMENDMENT NO. 3

On page 11, line 29, delete "or operated by or on behalf of a financial institution or retailer"

Respectfully submitted,

Representative Chris Broadwater

Senator David Heitmeier

Representative Scott M. Simon

Senator Dale M. Erdey

Representative Paul Hollis

Senator Sharon Weston Broome

 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 1176 by Representative Broadwater

Keyword and oneliner of the instrument as it left the House

TANF: Provides for restrictions on use of TANF cash assistance and electronic benefits transfer (EBT) cards

Report adopts Senate amendments to:

1. Change a defining characteristic of "amusement attraction", as used in proposed law, from a place in which certain specified activities are offered to a place that is principally devoted to those activities.
2. Add zoos, aquariums, and places principally devoted to sports as enterprises that are specifically excluded from the definition of "amusement attraction" in proposed law.
3. In one of two definitions of "automated teller machine" in proposed law, delete ownership or operation by or on behalf of a financial institution or retailer as a defining feature of the machine.
4. Change from January 1, 2015, to April 1, 2015, the date by which certain businesses specified in proposed law must disable access to electronic cash assistance benefits through automated teller machines and point of sale terminals or face a penalty.
5. Change the commencement date for the authority of DCFS to impose fines provided in proposed law from the effective date of rules to be promulgated by the department to April 1, 2015.
6. Makes technical changes.

Report amends the bill to:

1. In a definition of "automated teller machine" in proposed law, delete ownership or operation by or on behalf of a financial institution or retailer as a defining feature of the machine.
2. Make a technical change.

Digest of the bill as proposed by the Conference Committee

Present law provides for duties and functions of the Department of Children and Family Services (DCFS) in administering the following cash assistance programs of the Temporary Assistance for Needy Families block grant:

- (1) Family Independence Temporary Assistance Program (FITAP), which provides cash assistance to needy families for the purpose of assisting those families in meeting basic needs.
- (2) Kinship Care Subsidy Program (KCSP), which provides cash assistance for financially needy kinship caregivers, including grandparents, step-grandparents, and other adult relatives within the fifth degree of consanguinity who have legal custody or guardianship of minor relatives.

Proposed law retains present law and adds thereto the following definitions:

- (1) "Adult paraphernalia store" means an establishment that has as a substantial or significant portion of its stock clothing, objects, tools, toys, or any other items distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.
- (2) "Amusement attraction" means a movie theater, video arcade, or any other building, structure or place principally devoted to activities providing amusement, pleasure, thrills, or excitement. However, "amusement attraction" does not include a zoo, aquarium, or any enterprise principally devoted to the exhibition of products of the following:
 - (a) Agriculture.
 - (b) Industry.
 - (c) Education.
 - (d) Science.
 - (e) Religion.
 - (f) Sports.
 - (g) The arts.
- (3) "Amusement ride" means any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" includes inflatables.
- (4) "Bail" means security given by a person to assure his appearance, or the appearance of a third party, before the proper court whenever required.
- (5) "Bar" means a business that holds a Class A-General retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages.
- (6) "Commercial body art facility" means any location, place, area, or business, whether permanent or temporary, that provides consumers access to personal services workers who for remuneration perform any of the following procedures:
 - (a) Tattooing or inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin.
 - (b) Body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; with the exception of piercing an ear with a disposable, single-use stud or solid needle applied using a mechanical device to force the needle or stud through the ear.
 - (c) Application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.
- (7) "Cruise ship" means any commercial ship used for the domestic or international carriage of passengers.

- (8) "Gaming establishment" means a gambling casino and any other establishment which provides gaming activities that are subject to regulation by the Louisiana Gaming Control Board. "Gaming establishment" does not include either of the following:
- (a) A grocery store that sells groceries including staple foods and that also offers, or is located within the same building or complex as, casino activities, gambling, or gaming activities.
 - (b) Any establishment that offers casino, gambling, or gaming activities that are incidental to the principal purpose of the business.
- (9) "Jewelry" means an object or thing consisting of precious stones or precious metals worn as adornment or apparel, including costume jewelry.
- (10) "Liquor store" means any retail establishment that sells exclusively or primarily intoxicating liquor, but does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.
- (11) "Nail salon" means a commercial establishment that provides nail services of any kind including but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of a person's hands or feet together with massaging the hands, arms, legs, and feet.
- (12) "Psychic" means any person or establishment engaged in the occupation of occult science including a fortune teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, or advisor who in any manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.
- (13) "Sexually oriented business" means any commercial enterprise that has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Proposed law prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance in an electronic benefits transfer transaction at any of the following places: Liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; any establishment where persons under 18 are not permitted to enter.

Proposed law further prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance benefits in any electronic benefits transfer transaction at a retailer for the purchase of any of the following:

- (1) An alcoholic beverage as defined in present law, R.S. 14:93.10.
- (2) A tobacco product as defined in present law, R.S. 14:91.6(B).
- (3) A ticket for a lottery as defined in present law, R.S. 47:9002.
- (4) Jewelry as defined in proposed law.

Proposed law authorizes DCFS to close the FITAP case of any recipient who violates the provisions of proposed law in accordance with the following schedule:

- (1) Case closure for a period of 12 months for the first violation.
- (2) Case closure for a period of 24 months for the second violation.

- (3) Permanent case closure for the third violation.

Proposed law provides that a cash assistance recipient whose case is closed pursuant to proposed law shall have the right to a hearing conducted in accordance with the Administrative Procedure Act.

Proposed law prohibits retailers and other business establishments that participate in the cash assistance electronic benefits transfer system from accepting the electronic benefits transfer card in payment for any of the following:

- (1) An alcoholic beverage as defined in present law, R.S. 14:93.10.
- (2) A tobacco product as defined in present law, R.S. 14:91.6(B).
- (3) A ticket for a lottery as defined in present law, R.S. 47:9002.
- (4) Jewelry as defined in proposed law.

Proposed law prohibits the following retailers and business establishments from conducting any electronic benefits transfer transaction: liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; any establishment where persons under 18 are not permitted to enter.

With the exception of businesses approved as retailers in the Supplemental Nutrition Assistance Program of this state, proposed law requires each business that is subject to the prohibitions of proposed law and has an automated teller machine or point-of-sale terminal on its premises to disable access to electronic cash assistance benefits through such machine or terminal on or before April 1, 2015.

Proposed law provides that any business that violates proposed law shall be subject to the following civil fines:

- (1) \$500 for the first violation.
- (2) \$1,000 for the second violation.
- (3) \$2,500 for the third violation and each violation thereafter.

Proposed law requires DCFS to promulgate rules and regulations to effectuate the provisions of proposed law. Stipulates that the rules and regulations shall provide, at minimum, for notice to a retailer or other business establishment of any violation, and for an appeal procedure including judicial review.

Proposed law establishes that the appeal procedure provided for therein shall be suspensive. Provides that each appeal initiated pursuant to proposed law shall be heard by the division of administrative law in accordance with the applicable provisions of the Administrative Procedure Act.

Proposed law requires the division of administrative law to furnish to DCFS and the retailer or other business a copy of the decision rendered in the appeal and written notice of the manner for requesting judicial review.

Proposed law provides that authority of DCFS to impose the fines established therein shall not commence until April 1, 2015.

Proposed law authorizes DCFS to institute any civil court action necessary to collect fines imposed pursuant to proposed law and not timely appealed. Provides that interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable. Further provides that all costs of any successful action to collect

such fines, including travel expenses and reasonable attorney fees, shall be awarded to DCFS in addition to the fines.

Proposed law provides that monies DCFS collects through civil fines imposed pursuant to proposed law shall be deposited in the Fraud Detection Fund established in present law, R.S. 46:114.4. Provides by reference that the monies in the fund may be appropriated by the legislature to DCFS for the enhancement of fraud detection and recovery activities; and that these funds shall not be used to replace, displace, or supplant state general funds appropriated for daily operation of any regional fraud detection activities of the department.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 46:114.4(C), 231, and 237; Adds R.S. 46:231.3 and 231.14)